

NAVIGATING CHILDREN'S CONTACT WITH THEIR FATHER



for
Women

After separation, depending upon the children's relationship with your ex-partner, they may want to, or have to, visit him. When abuse has been an issue, this will be difficult. You may worry about their safety when with him.

Getting Legal Custody

After a separation, whether or not you were legally married, you should have a written arrangement about custody. If the children stay with you, you have *de facto* custody but not *legal* custody. Many couples make a custody agreement or parenting plan and get lawyers to write it out in a legal way. When there has been abuse in a relationship, such negotiation might not be possible, nor wise. Get a lawyer to help you. A lawyer should protect your right not to be pressured into an agreement that is not in the best interests of your children.

- if your ex-partner refuses to sign an agreement, you must go to court to ask a judge for a custody order. The Court may make an interim order (meaning temporary) until there is time to hear the case.
- if mediation is suggested, tell the mediator about the abuse: your case may not be appropriate
- having a custody agreement or order is vital if an ex-partner might take a child to another country
- if you worry about this, get the children's passports, talk to a lawyer, and read the booklet called *International Child Abductions: A Manual for Parents*.



Ministry of the Attorney General (2002). *What you Should Know About Family Law in Ontario*. [available at www.attorneygeneral.jus.gov.on.ca]

Community Legal Education Ontario (2001). *Do you Know a Women who is Being Abused: A Legal Rights Handbook*. [available at: www.cleo.on.ca/]

Government of Canada (2003). *International Child Abductions: A Manual for Parents*. [available at www.voyage.gc.ca]

Conditions of Visitation

Another important issue to get written down involves visits by children with your ex-partner. Arrangements can be loosely defined (e.g., reasonable access) or specifically defined (e.g., every second weekend from 5 p.m. Friday to 8 p.m. Sunday). If the judge believes your children may be at risk of harm, the visits may have to be supervised. This means that an approved person must be present during the visit. In extreme cases, a court will deny an abusive parent any access at all, but this is very, very rare. The Children's Aid Society may also have a say about visits to your ex-partner.

Child Support

The Federal Government has guidelines for how much a non-custodial parent should pay the custodial parent. For example, an Ontario parent earning \$50,000 (before taxes) would normally pay \$429 for one and \$700 for two children, per month. Sometimes you are so tired of fighting that you might agree to less. Or you may be afraid to ask for the full amount that your children have a right to. So have a lawyer help you.

Applying for Legal Aid

If your income is below a certain level, you may qualify for Legal Aid so a lawyer can help with custody, visitation and child support. You must apply in person at one of their 48 offices across Ontario. Look in the telephone book under “Legal Aid Ontario” or call 1-800-668-8258 to find the nearest one.

Finding a Family Law Lawyer

The Legal Aid office has a list of local family lawyers who accept legal aid certificates. Or you can call the Lawyer Referral Service. Abused women in crisis can call: 1-800-268-8326 / (416) 947-3330. You can also find the names of lawyers in the Yellow Pages of the telephone book under "lawyers."

Family Law Information Centres (FLICs)

In many courthouses in Ontario, FLICs offer free access to a lawyer called a “duty counsel.” He or she can explain how to seek custody and child support through the courts, and how to apply for Legal Aid.

Safety on Visits

Sit down with the children and develop a safety plan for their visits with your ex-partner. Make sure they know how to contact you and how to call 9-1-1 in an emergency.

Document Problems

Keep a written record of problems with visitation, including when your ex-partner does not show up for scheduled visits or does not bring the children home at the appointed time.

Carry Custody Documents at All Times

Once you have legal custody, let the school know and carry the papers with you at all times

Help with Transfer

For some women, having your ex-partner pick up the children for visits is too risky. Consider asking a family member whom you trust to deliver and pick-up the children, have the transfer in a public place, or use any other option that reduces the risk for you. All Supervised Access Centres offer supervised exchanges.

Supervised Access Centres

The government of Ontario funds Supervised Access Centres in all court districts in Ontario. For more information, call: 1-416-212-2028.

Custody and Visitation Assessments

The judge may ask you and your ex-partner to undergo a mental health assessment to determine the best interests of the children. The same assessor sees you both, but at separate times. The recommendation is given to the judge, who may or may not use that recommendation to make the final order. Sometimes, the Office of the Children’s Lawyer arranges the assessment. The assessment may be paid by Legal Aid.

When to call the Children’s Aid Society

It is the job of CASs across Ontario to protect children from abuse and neglect. If a CAS sees your ex-partner as a risk to your children, the agency can ask a Court for supervised visits and other conditions, like counselling. Before you call the CAS, however, be aware that both parents are assessed to determine the best interests of the children. Some women do not find this helpful.